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DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-045)

1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective Date: April 20, 2016.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos at (202) 482-2243 or Paul Walker (202) 482-0413, AD/CVD Operations, Enforcement & Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On March 31, 2016, the Department of Commerce (the Department) received an antidumping duty (AD) petition concerning imports of 1-hydroxyethylidene-1, 1-diphosphonic acid (HEDP) from the People's Republic of China (PRC), filed in proper form on behalf of Compass Chemical International LLC (Compass or Petitioner).¹ The AD petition was accompanied by a countervailing duty (CVD) petition for the PRC.² Petitioner is a domestic producer of HEDP.³

¹ See the Petition for the Imposition of Antidumping and Countervailing Duties on Imports of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China, dated March 31, 2016 (the Petition) at Volumes I and II.

² *Id.*, at Volume III.

³ See Volume I of the Petition at 2.

On April 5, 2016, the Department requested additional information and clarification of certain areas of the Petition.⁴ Petitioner filed responses to these requests on April 7, 8, and 14, 2016.⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that imports of HEDP from the PRC are being, or are likely to be, sold in the United States at less-than-fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed this Petition on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that Petitioner is requesting.⁶

Period of Investigation

Because the Petition was filed on March 31, 2016, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is July 1, 2015 through December 31, 2015.

⁴ See the letters from the Department to Petitioner entitled, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from the People’s Republic of China: Supplemental Questions,” dated April 5, 2016 (General Issues Supplemental Questionnaire) and “Petition for the Imposition of Antidumping Duties on Imports of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from the People’s Republic of China: Supplemental Questions” dated April 5, 2016.

⁵ See the letter from Petitioner to the Department entitled, “Petition for the Imposition of Antidumping and Countervailing Duties, Supplemental Submission, Petition Volume I: 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People’s Republic of China,” dated April 7, 2016 (General Issues Supplement); *see also* the letter from Petitioner to the Department entitled, “Petition for the Imposition of Antidumping and Countervailing Duties, Supplemental Submission, Petition Volume II: 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People’s Republic of China,” dated April 8, 2016 (AD Supplemental Response); *see also* the letter from Petitioner to the Department entitled, “Petition for the Imposition of Antidumping and Countervailing Duties, Supplemental Submission, Petition Volume II: 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People’s Republic of China,” dated April 8, 2016 (Second AD Supplemental Response).

⁶ See the “Determination of Industry Support for the Petition” section below.

Scope of the Investigation

The product covered by this investigation is HEDP from the PRC. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

Comments on Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.⁷

As discussed in the preamble to the Department’s regulations,⁸ we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, May 10, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Friday, May 20, 2016.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation

⁷ *See* General Issues Supplemental Questionnaire at 2; *see also* General Issues Supplement at 2.

⁸ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent CVD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement & Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).⁹ An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement & Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of HEDP to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide

⁹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe HEDP, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all comments must be filed by 5:00 P.M. ET on Tuesday, May 10, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Tuesday, May 17, 2016. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the record of this less-than-fair-value investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50

percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹⁰ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹¹

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

¹⁰ See section 771(10) of the Act.

¹¹ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that HEDP, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹²

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, Petitioner provided its 2015 production of the domestic like product.¹³ Petitioner states that it is the only known producer of HEDP in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.¹⁴

Our review of the data provided in the Petition and other information readily available to the Department indicates that Petitioner has established industry support.¹⁵ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁶ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition

¹² For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People’s Republic of China (PRC AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People’s Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹³ *See* Volume I of the Petition, at 5 and Exhibit I-1.

¹⁴ *Id.*

¹⁵ *See* PRC AD Initiation Checklist, at Attachment II.

¹⁶ *See* section 732(c)(4)(D) of the Act; *see also* PRC AD Initiation Checklist, at Attachment II.

account for at least 25 percent of the total production of the domestic like product.¹⁷ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.¹⁸ Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting the Department initiate.¹⁹

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁰

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; decline in shipments and production; decline in employment; decline in financial performance; and lost sales and revenues.²¹ We have assessed the allegations and supporting evidence regarding material injury, threat of material

¹⁷ See PRC AD Initiation Checklist, at Attachment II.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See General Issues Supplement, at 2.

²¹ See Volume I of the Petition, at 10-13, 19-38 and Exhibit I-5; *see also* General Issues Supplement, at 2.

injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²²

Allegations of Sales at Less-Than-Fair Value

The following is a description of the allegation of sales at less-than-fair value upon which the Department based its decision to initiate an investigation of imports of HEDP from the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the initiation checklist.

Export Price

Petitioner based U.S. price on an offer for sale for HEDP from a Chinese producer.²³ Petitioner made deductions from U.S. price for movement expenses consistent with the delivery terms.²⁴

Normal Value

Petitioner stated that the Department has found the PRC to be a non-market economy (NME) country in every administrative proceeding in which the PRC has been involved.²⁵ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties, and the public, will have the

²² See PRC AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China.

²³ See Volume II of the Petition, at 4 and Exhibit II-5; *see also* AD Supplemental Response at Questions 1-2 and Exhibit Supp (AD) II-5; *see also* Second AD Supplemental Response at the attachment.

²⁴ *Id.*, at 4-5 and Exhibits II-6 through II-10.

²⁵ *Id.*, at 2.

opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner claims that Mexico is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of the PRC and it is a significant producer of comparable merchandise.²⁶

Based on the information provided by Petitioner, we believe it is appropriate to use Mexico as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

In the case of chemical inputs, Petitioner explained that its major chemical inputs likely differ from those used by most HEDP manufacturers in the PRC due to differences in production processes.²⁷ To approximate the Chinese production process (which begins with phosphorus trichloride), Petitioner used the chemical formula and known molecular weights of the various chemical inputs and resulting by-product for the Chinese production method.²⁸ Petitioner believes that this methodology provides a reasonably accurate reflection of presumed consumption rates for Chinese HEDP producers.²⁹ Petitioner based the FOPs for labor, energy, and packing on its own consumption rates for producing 60-percent aqueous solution HEDP (which is substantially identical to the HEDP product offered for sale in the U.S. market by a Chinese producer), as it did not have access to records of the consumption rates of PRC

²⁶ See Volume II of the Petition, at 2-4 and Exhibits II-1 – II-4.

²⁷ *Id.*, at 5 and Exhibit II-13; see also AD Supplemental Response at Question 6.

²⁸ See AD Supplemental Response at Question 3; see also Volume II of the Petition at Exhibit II-13.

²⁹ See AD Supplemental Response at Question 3.

producers of the subject merchandise.³⁰ Petitioner believes that these usage rates reasonably approximate those incurred by Chinese HEDP producers.³¹

Valuation of Raw Materials

Petitioner valued the FOPs for raw materials (*e.g.*, phosphorus trichloride, glacial acetic acid, hydrochloric acid, *etc.*) using reasonably available, public import data for Mexico obtained from the Global Trade Atlas (GTA) for the POI.³² Petitioner excluded all import values from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries.³³ In addition, in accordance with the Department's practice, the average import value excludes imports that were labeled as originating from an unidentified country.³⁴ The Department determines that the surrogate values used by Petitioner are reasonably available and, thus, are acceptable for purposes of initiation.

Valuation of Water

Petitioner valued water using data from the Mexican government's National Water Commission of Mexico publication, "Statistics on Water in Mexico, 2010 edition."³⁵ Petitioner converted the water rates to U.S. dollars using the average exchange rate during the POI.³⁶ Petitioner used a POI-average consumer price index adjustment to adjust water rates for inflation in Mexico.³⁷

³⁰ See Volume II of the Petition, at 5-8 and Exhibit II-13; *see also* AD Supplemental Response at Question 4.

³¹ *Id.*, at Exhibit II-13; *see also* AD Supplemental Response at Question 4.

³² See Volume II of the Petition at 6 and Exhibit II-16.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*, at 7 and Exhibit II-19; *see also* AD Supplemental Response at Question 7.

³⁶ See AD Supplemental Response at Question 7 and Exhibits Supp (AD) II-14 and Supp (AD) II-24.

³⁷ See Volume II of the Petition, at Exhibit II-23; *see also* AD Supplemental Response at Question 9 Exhibit Supp (AD) II-15.

Valuation of Labor

Petitioner valued labor using the most-recently-available Mexican labor data published by the United Nations' International Labour Organization (ILO).³⁸ Specifically, Petitioner relied on data pertaining to wages and benefits earned by Mexican workers engaged in “manufacture of other chemical products” in the Mexican economy.³⁹ Petitioner converted to U.S. dollars using the average exchange rate during the POI.⁴⁰

Valuation of Packing Materials

Petitioner valued the packing materials used by PRC producers (intermediate bulk carriers) using import data obtained from GTA for the POI.⁴¹

Valuation of Energy

Petitioner calculated energy usage based upon its own production experience associated with electricity and steam produced by natural gas.⁴² Petitioner valued electricity based on the industry rate identified in the International Energy Agency's 2015 “Key World Energy Statistics.”⁴³ This information was reported in U.S. dollars per unit and multiplied by Petitioner's factor usage rates.⁴⁴ Petitioner valued steam based on imports of natural gas (from GTA data for the POI) converted to steam based on relevant conversion factors.⁴⁵

Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit

Petitioner calculated ratios for factory overhead, selling, general and administrative expenses and profit based on the most recent audited financial statements for Grupo Pochteca,

³⁸ *Id.*, at 6 and Exhibit II-17.

³⁹ *Id.*

⁴⁰ *Id.*; see also AD Supplemental Response at Question 8 and Exhibit Supp (AD) II-22.

⁴¹ See Volume II of the Petition, at 7 and Exhibit II-15.

⁴² *Id.*

⁴³ *Id.*; see also Exhibit II-18.

⁴⁴ *Id.*

⁴⁵ *Id.*, at 7 and Exhibit II-20.

S.A.B. de C.V. and Subsidiaries, a manufacturer of sodium hexametaphosphate (SHMP),⁴⁶ which the ITC has found to be a polyphosphate chelating agent similar to HEDP.⁴⁷ Petitioner contends that SHMP and HEDP are comparable merchandise; it uses SHMP because HEDP production exists only in the United States, the PRC, India, and the United Kingdom (*i.e.*, does not exist in any potential surrogate country).⁴⁸

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of HEDP from the PRC are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margin for HEDP from the PRC is 96 percent.⁴⁹

Initiation of Less-than-Fair-Value Investigation

Based upon the examination of the AD Petition on HEDP from the PRC, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of HEDP from the PRC are being, or are likely to be, sold in the United States at less-than-fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we intend to make our preliminary determination no later than 140 days after the date of this initiation.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD

⁴⁶ *Id.*, at 7 and Exhibit II-21.

⁴⁷ *Id.*, at 3-4.

⁴⁸ *Id.*, at 3.

⁴⁹ *Id.*, at 8 and Exhibit II-24; *see also* AD Supplemental Response at Question 10 and Exhibit Supp (AD) II-24; *see also* PRC AD Initiation Checklist. Petitioner also provided a margin calculated using a normal value calculated based on its own production process and factor usage rates; however, Petitioner indicated that Chinese producers do not use this production process, *see* PRC AD Initiation Checklist.

law.⁵⁰ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.⁵¹ The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this AD investigation.⁵²

Respondent Selection

Petitioner named 13 companies as producers/exporters of HEDP.⁵³ In accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to the investigation⁵⁴ and base respondent selection on the responses received. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at <http://www.trade.gov/enforcement/news.asp>.

Producers/exporters of HEDP from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement & Compliance website. The Q&V response must be submitted by the relevant PRC exporters/producers no later than March 1, 2016, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS.

⁵⁰ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁵¹ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

⁵² *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

⁵³ See Volume I of the Petition at 9 and Exhibit I-3.

⁵⁴ See Appendix I, “Scope of the Investigation.”

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁵⁵ The specific requirements for submitting a separate-rate application in the PRC investigation are outlined in detail in the application itself, which is available on the Department's web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.⁵⁶ Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that respondents from the PRC submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms

⁵⁵ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁵⁶ Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁵⁷

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the government of the PRC via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of HEDP from the PRC are materially injuring or threatening material injury to a U.S. industry.⁵⁸ A negative ITC determination will result in the investigation being terminated;⁵⁹ otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the

⁵⁷ See Policy Bulletin 05.1 at 6 (emphasis added).

⁵⁸ See section 733(a) of the Act.

⁵⁹ *Id.*

Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁶⁰ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁶¹ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September

⁶⁰ See 19 CFR 351.301(b).

⁶¹ See 19 CFR 351.301(b)(2).

20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶² Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petition filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.⁶³ The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order (APO) in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in

⁶² See section 782(b) of the Act.

⁶³ See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 20, 2016.

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes all grades of aqueous acidic (non-neutralized) concentrations of 1-hydroxyethylidene-1, 1-diphosphonic acid (HEDP), also referred to as hydroxyethylidenendiphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The CAS (Chemical Abstract Service) registry number for HEDP is 2809-21-4.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2931.90.9043. It may also enter under HTSUS subheadings 2811.19.6090 and 2931.90.9041. While HTSUS subheadings and the CAS registry number are provided for convenience and customs purposes only, the written description of the scope of this investigation is dispositive.

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